



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0185; FRL-10021-61-Region 4]

Air Plan Approval; Florida;

Maintenance Plan Update for the Hillsborough County Lead Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP), on January 23, 2020. The SIP revision seeks to update the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the maintenance plan for the Hillsborough County lead maintenance area (hereinafter referred to as the “Hillsborough Area” or “Area”) for the 2008 lead national ambient air quality standards (NAAQS). The SIP revision also seeks to incorporate recent changes to the air construction permit for the EnviroFocus Technologies, LLC (EnviroFocus) facility in the Area that are related to an increase in the refined lead production limit. EPA proposes to find that this SIP revision meets all relevant Clean Air Act (CAA or Act) statutory and regulatory requirements, is consistent with EPA’s guidance, and is in accordance with EPA’s September 11, 2018, redesignation of the Hillsborough Area from nonattainment to maintenance.

DATES: Comments must be received on or before **[Insert date 30 days after date of publication in the FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-RO4-OAR-2020-0185 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any

comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8966. Mr. Febres can also be reached via electronic mail at febres-martinez.andres@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 12, 2008 (73 FR 66964), EPA promulgated a revised primary and secondary lead NAAQS of 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Under EPA's regulations at 40 CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with Appendix R of 40 CFR part 50, is less than or equal to 0.15 $\mu\text{g}/\text{m}^3$. *See* 40 CFR 50.16. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement.

EPA designated the Hillsborough Area¹ as a nonattainment area for the 2008 lead NAAQS on November 22, 2010 (75 FR 71033), effective December 31, 2010, using 2007-2009

¹ The Hillsborough Area is comprised of a portion of Hillsborough County in Florida bounded by a 1.5 km radius centered at Universal Transverse Mercator coordinates 364104 meters East, 30093830 meters North, Zone 17, which surrounds Envirofocus.

ambient air quality data. This established an attainment date of five years after the December 31, 2010, effective date for the 2008 lead nonattainment designations pursuant to CAA section 172(a)(2)(A). Therefore, the Hillsborough Area's attainment date was December 31, 2015.

On April 16, 2015 (80 FR 20441), EPA published a final rule that approved a SIP revision, comprised of an attainment plan, based on Florida's attainment demonstration for the Hillsborough Area that included the base year emissions inventory requirements, a modeling demonstration of attainment for the 2008 lead NAAQS, reasonably available control measure (RACM) requirements that included reasonably available control technology (RACT), a reasonable further progress (RFP) plan, and CAA section 172(c)(9) contingency measures for the Hillsborough Area.

Subsequently, on September 11, 2018 (83 FR 45836), EPA published a final rule that approved Florida's March 26, 2018, redesignation request and associated SIP revision for the Hillsborough Area. Specifically, EPA took three separate but related final actions regarding the Hillsborough Area: (1) determined that the Hillsborough Area attained the 2008 lead NAAQS based on complete, quality-assured, and certified ambient monitoring data for the 2014–2016 period, and that the Hillsborough Area continued to attain the standard based on complete, quality-assured, and certified ambient monitoring data for the 2015–2017 period; (2) approved the maintenance plan for the Hillsborough Area and incorporated it into the Florida SIP; and (3) approved Florida's request for redesignation of the Hillsborough Area from nonattainment to attainment for the 2008 lead NAAQS.

II. EPA's Analysis of the State's SIP Revision

On January 23, 2020, FDEP submitted a SIP revision that seeks to update the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the maintenance plan for the Area.² The SIP revision also seeks to

² Florida's SIP revision does not seek changes to any other portions of the maintenance plan. Therefore, those portions of the plan will remain in the SIP as approved by EPA in its September 11, 2018 action (83 FR 45836) and are not open for comment.

incorporate recent changes to the air construction permit for the EnviroFocus facility that are related to an increase in the refined lead production limit.

A. Changes to the EnviroFocus Construction Permit

As noted above, EPA approved the attainment plan for the Hillsborough Area on April 16, 2015. *See* 80 FR 20441. As part of that approval, EPA incorporated Florida's Air Construction Permit No. 0570057-027-AC for the EnviroFocus facility into the SIP, excluding elements of the permit not specifically related to lead emissions.³

On November 6, 2019, FDEP issued Air Construction Permit No. 0570057-037-AC that increases the refined lead production limit for the facility from 150,000 tons per year (tpy) to 200,000 tpy and increases the maximum capacity of the reverb furnace from 262,800 tpy to 338,400 tpy. As part of the January 23, 2020, SIP revision, FDEP requests that EPA incorporate the following four conditions in Section 3 of Permit No. 0570057-037-AC into the SIP thereby replacing conditions in the SIP relating to the lead production and furnace capacity limits from Permit No. 0570057-027-AC: (1) Subsection B, Specific Condition 2; (2) Subsection B, Specific Condition 3a; (3) Subsection C, Specific Condition 1; and (4) Subsection D, Specific Condition 1.⁴ All other provisions in permit 0570057-027-AC specifically related to lead emissions remain in the SIP.

These four conditions specify the new maximum refined lead production limit of 200,000 tpy as well as the new maximum reverb furnace capacity of 338,400 tpy. Because the emission control measures remain the same, are federally enforceable, and all EnviroFocus process areas at the facility are completely encapsulated with negative pressure, the only anticipated increases in lead emissions come from the EU036 emissions unit, which encompasses the facility grounds and roadways.⁵ This anticipated increase is due to the increased truck traffic that will be needed

³ Florida Air Permit No. 0570057-027-AC is available in the docket for this proposed action.

⁴ *See* Florida Air Construction Permit No. 0570057-037-AC, found in Appendix A of Florida's January 23, 2020, SIP revision and included in the docket for this proposed action. *See* footnotes 12-15 of this notice for the text of each revised permit condition proposed for incorporation into the SIP.

⁵ *See* 80 FR 6485 (February 5, 2015) for information on the encapsulation of the facility as part of the attainment plan for the Area. EPA finalized this action on April 16, 2015 at 80 FR 20441.

to reach the newly approved production limit as well as the potential re-entrained dust caused by this traffic. Section II.B, below, goes into detail regarding the effects of these production limit increases on the overall emissions from the EnviroFocus facility and EPA's analysis of these increases.

B. Changes to the Maintenance Plan

(i) Attainment Emissions Inventory

FDEP is proposing to update the attainment emissions inventory in the maintenance plan for the Hillsborough Area to: (1) correct an error in the original attainment emissions inventory that was part of the March 29, 2018, redesignation request; and (2) update the attainment emissions inventory in order to reflect site-specific emission factors from the EnviroFocus facility.

In its maintenance plan, Florida selected 2014 as the attainment year, as this was the first full year that the Area did not show any monitored violations of the 2008 lead NAAQS. Florida provided an attainment emissions inventory for that year. However, the 2014 lead emissions estimates for unit EU036 (Facility Grounds and Roadways) were incorrectly reported. The reported value was based on an incorrect control efficiency of 50 percent, rather than 94 percent. The correct control efficiency of 94 percent is based on the wet suppression controls used by the EnviroFocus facility and AP-42 calculations. As shown in Table 1 (column 3), below, by using the correct control efficiency, the 2014 lead emissions estimates for unit EU036 are lowered from 0.178 tpy to 0.0213 tpy.^{6, 7} Nonetheless, Florida explains that the emissions estimate of 0.0213 tpy (reflecting the correct control efficiency of 94 percent) was used in the inputs for the original modeling that demonstrated attainment and so the attainment modeling results do not

⁶ For its original attainment emissions inventory, Florida used actual emissions obtained from the facility's annual operating report (AOR).

⁷ Appendices B and C of Florida's January 23, 2020, SIP revision include calculations to demonstrate the difference in the 2014 emissions for EU036. The SIP revision and all of its appendices are located in the docket for this proposed action.

change. The error described above is limited solely to the representation of the emissions estimate in the attainment inventory and maintenance demonstration evaluation.

Additionally, in the attainment emissions inventory, Florida used the silt level and silt loading factors from a similar facility in Eagan, Minnesota, to estimate the emissions for EU036 because on-site data was not available at the time. Since then, EnviroFocus has carried out on-site measurements for these two factors, as well as updated vehicle weight and truck route distances within the facility. These measured data on the conditions of the soil within the EnviroFocus facility help to more precisely determine the possible emissions caused by truck traffic. Using this data, EnviroFocus determined that the levels of lead near the facility are much lower than those at the Eagan facility. Specifically, silt loading at EnviroFocus was on average about one-third of the amount measured in Eagan, and silt content was about 50 percent lower than at Eagan.

Given the newly obtained site-specific data, and accounting for the correct control efficiency, the emissions estimates for EU036 are lowered to 0.0026 tpy and the facility-wide emissions estimate is lowered to 0.272 tpy as shown in Table 1 (column 7).⁸ The value for EU036 is approximately 98 percent below the erroneous emissions estimate of the original emissions inventory and approximately 88 percent below the emissions estimate that reflects the correct control efficiency and non-site specific data from the Eagan facility.

Table 1: EU036 Emissions Comparison, Using Site-Specific and Non Site-Specific Data, as well as 50% and 94% Control Efficiencies

	2014 Lead Emissions						
	Non Site-Specific Data (Eagan, MN Source)			Site-Specific Data (EnviroFocus)			
	Original Data*	94% Control Efficiency		50% Control Efficiency		94% Control Efficiency	
	Emissions (tpy)	Emissions (tpy)	Reduction [%]	Emissions (tpy)	Reduction [%]	Emissions (tpy)	Reduction [%]

⁸ In addition, Table 1 of Florida's January 23, 2020, SIP revision shows the results of on-site samples for the EnviroFocus facility and compares them to results from the Eagan, Minnesota facility. Additionally, Appendix D of Florida's SIP revision includes calculations to demonstrate the difference in the 2014 emissions for EU036 when using site-specific data. These documents can be accessed through the docket for this proposed action.

EU036 Emissions	0.178	0.0213	88	0.0218	87.8	0.0026	98.5
Total Emissions Facility-wide	0.447	0.291	34.9	0.291	34.9	0.272	39.2

*Original Data used non site-specific data from the Eagan, MN facility, and a control efficiency of 50%

EnviroFocus is the only point source of lead emissions within the Hillsborough Area, and since the removal of lead from gasoline in the 1990s, there are no on-road mobile sources that would contribute to lead emissions. EPA proposes to approve the corrected emissions attainment inventory because Florida is effectively correcting a reporting error and because the new value is more representative as it is based on site-specific factors.

(ii) *Maintenance Demonstration*

In order to demonstrate maintenance through 2029, which is the end of the first 10-year maintenance period, Florida included projected lead emissions for the Hillsborough Area for the years 2023, 2026, and 2029 in the maintenance plan and seeks to revise those projected emissions through its SIP revision. In the original maintenance plan, Florida used an emissions comparison approach to demonstrate maintenance and assumed that emissions would remain equal to the 2014 attainment year level.⁹ Due to the increase in permitted production at the facility, Florida's SIP revision contains revised projected emissions for 2023, 2026, and 2029.

Because the emission control measures remain the same, are federally enforceable, and the EnviroFocus facility is completely encapsulated with negative pressure, the only anticipated increase in lead emissions comes from EU036, which encompasses the facility grounds and roadways. This is due to the increased truck traffic needed to reach the newly approved production limit and the potential re-entrained dust caused by this traffic.

As shown in Table 1, the adjusted 2014 emissions inventory, which includes the correct control efficiency of 94 percent and the site-specific data for EnviroFocus, shows that lead

⁹ EPA determined that it was appropriate to use an emissions comparison approach to demonstrate maintenance in the Area because local emissions were the primary contributor to nonattainment. See 83 FR 28402 (June 19, 2018) (proposal) and 83 FR 45836 (September 11, 2018) (final). Under this approach, if future projected emissions in an area remain at or below baseline emissions, then the related ambient air quality standards should not be exceeded in the future.

emissions for the EU036 unit are 0.0026 tpy. By increasing the truck traffic at the facility, Florida estimates that future emissions for EU036 will be 0.0046 tpy with the new production limit for the facility. The new facility-wide total emissions would be 0.274 tpy, an increase of 0.002 tpy from the corrected 2014 attainment year value of 0.272 tpy.¹⁰ Table 2, below, identifies the 2009 base year emissions included in Florida's attainment plan, the original and corrected attainment year emissions for comparison, as well as the projected emissions for 2023, 2026, and 2029 that account for the new production limit.

Table 2: Actual and Projected Annual Lead Emissions (tpy) for the Hillsborough Area; including the corrected 2014 attainment year emissions.

2009 Base Year	Original 2014 Attainment year	Corrected 2014 Attainment year ¹¹	2023 Interim Year	2026 Interim year	2029 Maintenance year
0.588	0.447	0.272	0.274	0.274	0.274

Florida has revised the projected emissions as described previously, and these projections indicate that emissions in the Area will increase slightly from 0.272 tpy to 0.274 tpy, a difference of less than 1 percent, which is due to the increased potential emissions from EU036. As EU036 represents the only unit which will have an emissions increase as a result of the production increase, the revised projections (in Table 2) are correct and representative of new conditions, and it is therefore acceptable to hold these projected values the same throughout the maintenance period.

Although emissions have increased slightly due to the corrected attainment year value, this increase is negligible and therefore not enough to cause a violation of the standard throughout the maintenance period. This is further supported by the fact that the modeling used in the EPA-approved attainment demonstration showed attainment using the erroneous emissions estimate of 0.291 tpy discussed in section II.B.(i), which is higher than the updated 0.274 tpy

¹⁰ Appendix E of Florida's January 23, 2020, SIP revision includes calculations to demonstrate the emissions increases due to the new production limit at EnviroFocus.

¹¹ See the discussion in Section II(B)(i) of this notice for details on the corrected 2014 attainment year emissions.

projected value, and the modeled controls are still permanent and enforceable. The attainment demonstration modeled emissions that already accounted for the corrected control efficiency of 94 percent but did not yet reflect the site-specific data for silt loading and silt content in the EnviroFocus facility. Therefore, the projected future emissions for the Hillsborough Area will remain below the emissions used to demonstrate attainment and future maintenance (through 2029) when the Area was redesignated to attainment.

For these reasons, EPA believes that the Hillsborough Area will continue to maintain the lead standard at least through the year 2029 and that the increase in the production limit for the EnviroFocus facility will not interfere with any applicable requirement concerning attainment, RFP, or any other applicable requirement of the CAA.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference into Florida's SIP Air Construction Permit No. 0570057-27-AC issued by FDEP to EnviroFocus with an effective date of December 14, 2012, except for the following:

1) conditions not specifically related to lead emissions, 2) Section 3, Subsection B, Specific Condition 3, 3) Section 3, Subsection B, Specific Condition 10, 4) Section 3, Subsection C, Specific Condition 5, and 5) Section 3, Subsection G, Specific Condition 5. EPA is also proposing to incorporate by reference into Florida's SIP the following conditions from Air Construction Permit No. 0570057-37-AC, issued by FDEP to EnviroFocus with an effective date of November 6, 2019: (1) Section 3, Subsection B, Specific Condition 2;¹² (2) Section 3,

¹² This provision states: "Lead Production: The maximum refined lead production from the EFT facility shall not exceed 200,000 tons in any consecutive twelve-month period. [Application No. 0570057-037-AC and Rule 62-210.200 (PTE), F.A.C.]"

Subsection B, Specific Condition 3a;¹³ (3) Section 3, Subsection C, Specific Condition 1;¹⁴ and (4) Section 3, Subsection D, Specific Condition 1.¹⁵

EPA has made, and will continue to make, the State Implementation Plan generally available through www.regulations.gov and at EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve changes regarding the Hillsborough Area as presented in Florida’s January 23, 2020, SIP revision. The proposed changes include corrections to the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the maintenance plan for the Area. The SIP revision also includes recent changes to the construction permit for the EnviroFocus facility that authorize an increase in the refined lead production limit at the facility.

EPA proposes to find that the changes to the SIP will not interfere with any applicable requirement concerning attainment, RFP, or any other applicable requirement of the CAA. EPA therefore proposes to incorporate the aforementioned changes to the maintenance plan and the facility’s permit into the Florida SIP.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40

¹³ This provision states: “Furnace Capacities: Any equipment or any other changes authorized as part of this permit, shall not result in any capacity increase of the reverb or blast furnaces. The reverb furnace shall still be limited to a maximum charge rate of 960 tons per day (TPD) with a maximum capacity of 338,400 tons in any twelve-month consecutive period. The blast furnace shall still have a maximum charge rate of 180 TPD with a maximum capacity of 65,700 tons in any twelve-month consecutive period. [Application No. 0570057-037-AC; Rules 62-4.070(3) and 62-210.200(PTE), F.A.C.]”

¹⁴ This provision states: “Lead Production: The maximum refined lead produced from the EFT facility shall not exceed 200,00 tons in any consecutive twelve-month period. [Application No. 0570057-037 and Rule 62-210.200(PTE), F.A.C.]”

¹⁵ This provision states: “Production: The maximum refined lead produced from the enclosed facility shall not exceed 200,000 tons any consecutive twelve-month period. [Application No. 0570057-037-AC and Rule 62.210.200(PTE), F.A.C.]”

CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 16, 2021.

John Blevins,

Acting Regional Administrator,

Region 4.

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